**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 3—Medicare Supplement Insurance**

AMENDED ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo (Supp. 2008), the Director adopts an amendment as follows:

20 CSR 400-3.650 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2009 (34 MoReg 1805-1920). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of *State Regulations*.

SUMMARY OF COMMENTS: The director received one (1) letter containing three (3) comments on the proposed amendment from America's Health Insurance Plans (AHIP). AHIP later noted that the third (3rd) comment no longer applied; therefore, only two (2) comments are included in this Order of Rulemaking.

COMMENT #1: AHIP requested that paragraph (5)(A)(3) be amended to be consistent with the National Association of Insurance Commissioners Model Regulation which offers a technical amendment to update the language regarding Medicare deductible and co-payment percentage factors.
RESPONSE: The director agrees with this comment and has modified the proposed amendment accordingly.

COMMENT #2: AHIP commented that the new amendments for paragraph (12)(B)(1) establish a new qualifying event for eligibility to guarantee issue of Medicare supplement plans. The new qualifying event would be for a person enrolled under an employee welfare benefit plan that provides health benefits that supplement Medicare benefits when "the individual leaves the plan." AHIP noted that this provision is not related to changes required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) or the Genetic Information Non-Discrimination Act of 2008 (GINA), and it goes beyond the federal minimum standards. AHIP asked that the words "or the individual leaves the plan;" be deleted from paragraph (12)(B)(1).
RESPONSE: The director appreciates this comment, but no changes have been made to the proposed amendment in response. The text referenced by AHIP is a Missouri-specific provision that was previously in the regulation for a number of years until it was mistakenly removed by a prior amendment. The director believes this provision previously provided Missouri consumers a necessary additional protection and should be reinserted, even though the language is not consistent with the NAIC Model Regulation.

(5) Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 30, 1992. No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

JOINT COMMITTEE ON
NOV 17 2009

(A) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this rule.

1. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

2. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

3. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

4. A "noncancelable," "guaranteed renewable," or "noncancelable and guaranteed renewable" Medicare supplement policy shall not—

A. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

B. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

5.

A. Except as authorized by the director, an issuer shall neither cancel nor non-renew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

B. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subparagraph D. of this paragraph, the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

(I) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(II) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in subsection (6)(B) of this rule.

C. If membership in a group is terminated, the issuer shall—

(I) Offer the certificate holder the conversion opportunities described in subparagraph 5.B. of this subsection; or

(II) At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

D. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

7. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.